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UNITED NATIONS COMMISSION
ON INTERNATIONAL TRADE LAW
Working Group on Insolvency Law
Eighteenth session
Vienna, 30 October-10 November 1995

PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda
3. Cross-border insolvency
4. Other business
5. Adoption of the report

Notes on the provisional agenda

At the present session, the Working Group on Insolvency Law commences its work, pursuant to a decision taken by the Commission at its twenty-eighth session (Vienna, 2-26 May 1995), to embark on the development of a legal instrument relating to cross-border insolvency.[1]

The Commission's decision to undertake work on cross-border insolvency was taken in response to suggestions made to it by practitioners and other trade circles directly concerned with the

[1] Report of the United Nations Commission on International Trade Law on the work of its twenty-eighth session (1993), Official records of the General Assembly, Fiftieth Session, Supplement No. 17 (A/50/17), paras. 382 to 393.

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problem, in particular at the UNCITRAL Congress, "Uniform Commercial Law in the 21st Century" (held in New York in conjunction with the twenty-fifth session, 17-21 May 1992). The Commission decided at its twenty-sixth session to pursue those suggestions further.[2] Subsequently, in order to assess the desirability and feasibility of work in this area, and to define appropriately the scope of the work, UNCITRAL and the International Association of Insolvency Practitioners (INSOL) held a Colloquium on Cross-Border Insolvency (Vienna, 17-19 April 1994), involving insolvency practitioners from various disciplines, judges, government officials and representatives of other interested sectors including lenders.[3]

The first UNCITRAL-INSOL Colloquium gave rise to the suggestion that work by the Commission should, at least at this stage, have the limited but useful goal of facilitating judicial cooperation, and court access for foreign insolvency administrators and recognition of foreign insolvency proceedings (hereinafter referred to as "judicial cooperation" and "access and recognition"). It was also suggested that an international meeting of judges take place specifically to elicit their views as to work by the Commission in this area. Those suggestions were received favourably by the Commission at its twenty-seventh session.[4]

Subsequently, the UNCITRAL-INSOL Judicial Colloquium on Cross-Border Insolvency was held (Toronto, 22-23 March 1995). The purpose of the Judicial Colloquium was to obtain for the Commission, as it embarked on work on cross-border insolvency, the views of judges and of Government officials concerned with insolvency legislation, on the specific issue of judicial cooperation in cross-border insolvency cases and the related topics of access and recognition.[5] The consensus view at the Judicial Colloquium was that it would be worthwhile for the Commission to provide a legislative framework, for example by way of model legislative provisions, for judicial cooperation, and to include in the text to be prepared provisions on access and recognition. In taking note of the views expressed at the Judicial Colloquium, the Commission noted that the Working Group would examine a range of matters raised at the Judicial Colloquium relating to the possible scope, approaches and effects of the legal text to be prepared.

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[2] Report of the United Nations Commission on International Trade Law on the work of its twenty-sixth session (1993), Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 (A/48/17), paras. 302 to 306. The background note on which the Commission based its discussion at the twenty-sixth session is contained in document A/CN.9/378/Add.4.

[3] The report on the UNCITRAL-INSOL Colloquium on Cross-Border Insolvency presented by the Secretariat to the Commission at its twenty-seventh session is set forth in document A/CN.9/398.

[4] Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session (1994), Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 (A/49/17), paras. 215 to 222.

[5] The report on the Judicial Colloquium presented by the Secretariat to the Commission at the twenty-eighth session is set forth in document A/CN.9/413.

The Working Group is composed of all States members of the Commission. These are:

Algeria, Argentina, Australia, Austria, Botswana, Brazil, Bulgaria, Cameroon, Chile, China, Ecuador, Egypt, Finland, France, Germany, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Nigeria, Poland, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Uruguay.

Item 1. Election of officers

The Working Group, in accordance with its practice at previous sessions, may wish to elect a Chairman and a Rapporteur.

Item 3. Cross-border insolvency

The Working Group will have before it a Note by the Secretariat containing a review of possible issues to be covered in a legal instrument dealing with judicial cooperation and access and recognition in cases of cross-border insolvency (A/CN.9/WG.V/WP.42). The Working Group may wish to use the report as a basis for its deliberations.

The following documents will be made available at the session:

(a) Note by the Secretariat containing a report on the UNCITRAL-INSOL Judicial Colloquium on Cross-Border Insolvency (Vienna, 17-19 April 1994) (A/CN.9/413);

(b) Note by the Secretariat containing a report on the UNCITRAL-INSOL Judicial Colloquium on Cross-Border Insolvency (Toronto, 22-23 March 1995) (A/CN.9/398); and

(c) Note by the Secretariat on cross-border aspects of insolvency (A/CN.9/378/Add.4).

Item 5. Adoption of the report

The Working Group may wish to adopt, at the close of its session, a report for submission to the twenty-ninth session of the Commission (to be held from 28 May to 14 June 1996 in New York).

Meetings

The session of the Working Group will take place from 30 October to 10 November 1995 at the Vienna International Centre. There will be 8 working days available for consideration of the agenda items at the session. No meeting will be scheduled for Thursday, 9 November, in order to allow for the preparation of the draft report of the session. Meeting hours will be from 9:30 to 12:30 and from 14:00 to 17:00, except on Monday, 30 October 1995, when the session will commence at 10:00.

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